IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12759 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PARESHBHAI J VYAS

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 12759 of 1994

MR HD VASAVADA for Petitioner No. 1

..... for Petitioner No. 2-10

Mr. M.K. Patel AGP for Respondent No. 1

SERVED BY RPAD - (N) for Respondent No. 2-3

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 16/10/2002

ORAL JUDGEMENT

Heard learned advocate Mr. Vasavada for the petitioners and Mr. M.K. Patel, learned AGP for respondent No.1. Notice of rule has been served upon the respondent No. 2 and 3 but nobody has remained present on their behalf when the matter was taken up for final hearing today. Therefore, the matter has been taken up for final hearing in their absence.

Learned advocate Mr. Vasavada for the petitioners has submitted that the petitioners applied for the post of Craft Instructor in view of the advertisement dated 14.7.1992 appeared in the Gujarat Samachar Daily and were selected for the training of the ATI and CTI in consultation with the Union Government and were sent for training in different institutions in different cities through out India. Such selections were made between August, 1992 to July, 1993 during the period of one year. According to him, the petitioners who have undergone such training were required to be appointed on the post of Craft Instructor which appointment was denied to the petitioners. He has further submitted that such other similarly situated candidates were appointed and have been retained in service whereas the petitioners have not been given appointment after such training. He has submitted that there are numerous vacancies in various cities in the State of Gujarat for the post of craft instructor which are being filled in by out side candidates on extraneous considerations while the petitioners are not being considered for such post though they have undergone the training in violation of Article 14, 16, 23, 39, 242 of the Constitution of India. He has also submitted that the respondents have also committed breach of the provisions of the Apprenticeship Act, 1961 as well as the provisions of section 25H, M and N of the Industrial Disputes Act,1947. Apprehension of the petitioners in the year 1994 was that the respondents are likely to fill up the vacant posts of craft instructors through mala fide exercise of the powers in favour of the candidates who are not qualified for being appointed and in view of these facts, the petitioners have filed the present petition.

Learned AGP Mr. Patel appearing for the respondent State of Gujarat has submitted that in respect of the grievances voiced by the petitioners in this petition, it would be just and proper if the petitioners make representation to the concerned authority and if such representation will be made, same shall be considered and decided by the respondent authority in accordance with law. He has also submitted that if the petitioners will be satisfying the criteria for the

appointment to the post of ATI or CTI, then, appropriate orders will certainly be passed on merits.

In view of this statement made by Mr. M.K. Patel, learned AGP for respondent No.1, it is open for the petitioners to file detailed representation in the subject matter of this petition to the respondents within six weeks from the date of receipt of copy of this order. As and when such representation made by the petitioners in the subject matter of this petition is received by the respondents, it is directed to the respondent authority to consider and decide the representation of the petitioners in accordance with law and merits and to examine the grievance of the petitioners and to pass appropriate order after considering representation of the petitioner within three months from the date of receipt of such representation from the petitioners and to communicate the decision to the petitioner.

With these observations and directions, this petition is disposed of without observing anything on merits of the matter and with a liberty in favour of the petitioners to challenge the orders that may be made by the respondent authority on the representation that may be made by the petitioners pursuant to these orders, before the appropriate forum in accordance with law, if such orders are adverse to the petitioners. Rule is discharged. Ad. interim relief, if any, shall stand vacated. There shall be no order as to costs.

Direct Service is Permitted.

Dt. 16.10.2002. (H.k. Rathod,J.)

Vyas